

**STATE OF NORTH CAROLINA
COUNTY OF BURKE**

**THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 DHR 02845**

DESTINY MANAGEMENT INC.,)
Petitioner,)
)
v.)
)
PARTNERS BEHAVIORAL HEALTH)
MANAGEMENT,)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into effective the date executed by Petitioner Destiny Management Inc. (“Petitioner” or “Destiny”) and Respondent Partners Behavioral Health Management (“Respondent” or “Partners”) (collectively “Parties” and individually “Party”).

WITNESSETH:

WHEREAS, the Parties have one or more contracts for the provision by Destiny Management Inc. of publicly-funded mental health, developmental disabilities and substance abuse services to Partners’ consumers enrolled in North Carolina Burke, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry and Yadkin Counties (“Catchment Area”); and

WHEREAS, Partners issued a Tentative Notice of Overpayment (“TNO”) dated November 13, 2015, with adverse findings from a post-payment review, notifying Destiny Management Inc., it had received Medicaid overpayments in the amount of \$7,718.10 due to Petitioner’s failure to submit service notes/grids required to support services billed, consistent with legal and contractual requirements; and

WHEREAS, Destiny Management Inc. filed a Request for Reconsideration, in which Partners determined Petitioner was able to produce documentation in regards to lines 13, 124 and 137 of the Adverse Findings Chart as well as Respondent would also be reducing the amount of payback requests in lines 1-20 of the Adverse Findings Chart. Therefore reducing the TNO amount; and

WHEREAS, Partners reviewed the dispute and issued a Notice of Decision dated January 19, 2016, reducing the overpayment to \$7,203.84 (“Partners Final Decision”); and

WHEREAS, Destiny Management Inc. filed this above-styled case 16 DHR 02845 (“Contested Case”) in the North Carolina Office of Administrative Hearings (OAH) challenging Partners Final Decision; and

WHEREAS, the Parties desire to compromise and settle any and all existing, known, or reasonably foreseeable disputes, claims, or rights between them, as set forth above; and

WHEREAS, the Parties have reached a compromise settlement resolving the differences between them on the existing disputes described herein, the terms and conditions of which are set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and covenants hereinafter set forth, for agreed upon good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties, for themselves and their predecessors, successors, managers, assigns, officers, directors, employees, and agents, agree as follows:

1. No Admissions: The settlement effected by this Agreement is a compromise of disputed claims, made to avoid the uncertainty and expense of potential litigation. The promises and terms agreed to herein are not to be construed as an admission of any alleged liability, illegal conduct, nonconformity, error, other deficiency or legal position on the part of any Party. Any such alleged liability, illegal conduct, nonconformity, error, or other deficiency is expressly denied by the respective Parties.
2. Dismissal: Petitioner will fully and voluntarily dismiss with prejudice this Contested Case 16 DHR 02845 within three (3) business days after the complete execution of this Agreement.
3. Partners Obligations: Provided Petitioner timely complies with all requirements of this Agreement, Partners:
 - a. Waives any applicable penalty and interest associated therewith;
 - b. Agrees not to seek recoupment against Destiny Management Inc. for the claims with dates of service covered in this Contested Case and TNO; and
 - c. Waives requirement of a plan of correction (POC) as to this disputed matter.
4. Petitioner's Obligations: Petitioner:
 - a. Certifies that any issues and processes giving rise to this matter, including any failure to keep or timely produce supporting paid-claims service documents, has been cured, making a POC unnecessary.
 - b. Agrees to pay Partners \$4,500.00 via cashier's checks, to be received by Partners in two installments, the first payment of \$2,250 due no later than close of business July 1, 2016 and the second and final payment of \$2,250.00 due no later than close of business August 1, 2016.
 - c. If Petitioner fails to timely and fully satisfy any obligations in this settlement Agreement, Petitioner authorizes Partners immediately without further notice:

- i. to recoup from as many check writes owed to Petitioner as necessary the full \$7,203.84 of the Final Decision, less payments received;
 - ii. to freeze referrals until such time as full recoupment or payment is made;
 - iii. to require a POC from Petitioner subject to Partners' standard operating procedures.
- d. Will indemnify, hold harmless and defend Partners for any and all damages (less payments made in accordance with this Agreement) including recoupments Partners might incur from or pay to state or federal regulators, Recovery Audit Contractors (RACs) or other authorities for not recouping any additional funds from Petitioner regarding the dispute resolved by this Agreement, notwithstanding the mutual release below. Partners agrees to reasonably notify Petitioner and defend against any such recovery attempts against Partners.

6. Mutual Release: Subject to the terms and obligations of this Agreement, each Party hereby releases the other, its current and former officials, employees, agents and representatives from any and all liability and causes of action that have arisen out of the TNO, Partners Final Decision, and this Contested Case.

7. Costs: All attorneys' fees, costs, and expenses related to all cases and disputes described herein shall be borne by each Party individually, and no claim for such fees, costs or expenses shall be made.

8. Merger Clause: This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof, and there are no promises, understandings, or representations other than those set forth herein. This Agreement supersedes any and all other prior agreements and drafts regarding the subject matter hereof. This Agreement may not be amended or modified except by a writing signed by both of the Parties or their duly authorized representatives.

9. Choice of Law, Forum Selection and Severability: This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of North Carolina, without regard to conflicts of laws principles, in any litigation, arbitration or legal proceedings arising out of this Agreement. The Parties understand, acknowledge and agree that the sole venue for all administrative and legal actions upon this Agreement shall be in a North Carolina court of competent jurisdiction located in one of the counties of Partners' catchment area at that time, or the U.S. District Court for the Western District of North Carolina, Charlotte Division. If any provisions of this Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, all other provisions shall nevertheless continue in full force and effect unless material to the overall Agreement.

10. Acknowledgement: Each Party acknowledges that it has carefully read this Agreement, knows the contents thereof, and executes the Agreement voluntarily as its own act. Each Party further acknowledges that it has conferred to the extent that it has deemed appropriate with legal counsel regarding this Agreement prior to its execution.

11. Execution: This Agreement may be executed in counterparts, each of which shall

be an original, and all of which taken together shall constitute one and the same instrument. The Parties may exchange electronic signatures on this Settlement Agreement or written signatures by facsimile or e-mail, which shall be acceptable and deemed binding as if originals.

12. Warranted Authority: The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the Parties.

THIS SETTLEMENT AGREEMENT is agreed to and executed by the Parties hereto:

DESTINY MANAGEMENT INC.

DocuSigned by:
By: Sherry Hawkins
307F6674921C491
Sherry Hawkins, President/CEO
Destiny Management Inc.
Post Office Box 1826
Drexel, NC 28619

6/16/2016 | 7:47 AM PDT

Date

PARTNERS BEHAVIORAL HEALTH MANAGEMENT

DocuSigned by:
By: W. Rhett Melton
W. Rhett Melton, CEO
901 South New Hope Road
Gastonia, NC 28054

6/21/2016 | 4:23 PM EDT

Date